

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

7.05 POWERED INDUSTRIAL TRUCK TRAINING IN LONGSHORING & MARINE TERMINALS

Date Issued: December 28, 2000

I. Background

This guidance has been developed to implement the settlement agreement between the federal Occupational Safety and Health Administration (OSHA), and Carriers Container Council, Inc., the International Longshore & Warehouse Union, and the International Longshoremen's Association. The Department of Labor and Industries (L&I) intends to follow the terms of this settlement agreement in enforcing the Powered Industrial Truck (PIT) standard (WAC 296-24-23025) with respect to Longshore and Marine Terminal operations.

II. Scope and Application

This WISHA Regional Directive (WRD) applies to all WISHA enforcement and consultation activities involving PIT operator training in the Longshoring and Marine Terminal Industries. It replaces any previous guidance on the subject, whether formal or informal.

III. Interpretive Guidance

The following interpretive guidance is based on WAC 296-24-23025 in the context of the agreement between federal OSHA and labor and management within the maritime industry. It does not apply to employers other than those covered by Standard Industrial Classification (SIC) Code 4491.

A. *What are the compliance deadlines related to WAC 296-24-23025 and its enforcement within longshore and marine terminal operations?*

There are two compliance deadlines for employers in SIC 4491:

- With respect to workers who regularly operated a powered industrial truck in longshoring or marine terminals before December 1, 1998, employers must comply with the standard, as described by this document, by October 1, 2001.
- With respect to workers who did *not* regularly operate a powered industrial truck in the longshoring or marine terminals before December 1, 1998, employers must comply with the standard, as described by this document, by June 30, 2001.

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B. Are longshore and marine terminal employers required to provide training to PIT operators prior to those dates?

Yes. Prior to the applicable compliance date of the revised standard, employers not already in full compliance with WAC 296-24-23025 (as described by this document) must ensure that their powered industrial truck operators are adequately trained as previously required by WAC 296-56-60077 for Longshore, Stevedore and related Waterfront Activities.

C. Can the required training and evaluation be conducted by a third party?

Yes. The person or persons who conduct training, refresher training, and evaluation of operators under WAC 296-24-23025 or WAC 296-56-60077 need not be employed by the employer of those operators. Such third-party training, including appropriate on-the-job training, may be provided by an employers' association, a labor union, joint labor-management training organization, or any other organization meeting the requirements of the standard. However, any citations for failure to ensure that appropriate training is provided will be issued to the employer.

1. The employer may rely on a third-party trainer's records showing that an employee has been trained and evaluated to operate a particular type of powered industrial truck in accordance with the standard *if* the training entity presents to the employer verification that the training program conforms to the standard and includes a list of topics covered by the training. The employer must make the verification available to L&I upon request.
2. If a powered industrial truck operator is trained and evaluated under the preceding paragraph, the employer must provide additional training in any of those topics only when its powered industrial truck operators will be potentially exposed to hazardous workplace-related conditions that could not reasonably have been foreseen when the training took place. Before employees operate powered industrial trucks under these conditions, the employer must brief them about the conditions and how to operate the powered industrial truck safely under those conditions.

D. How can a longshore or marine terminal employer comply with the three-year evaluation requirements of WAC 296-24-23025(4)(c) and (d)?

An employer is in compliance with the requirement of WAC 296-24-23025(4)(c) to evaluate operators at three-year intervals if the employer knows that a third party has conducted the required evaluation and the third party documents the evaluation pursuant to WAC 296-24-23025(6). If such evaluations, which can be based on the review of records by an existing entity, such as a joint labor-management committee, are made in the normal course of business, they need not be repeated for purposes of this requirement.

The record keeping required by WAC 296-24-23025(6) may be performed, and maintained, by a third-party trainer. The records must identify the types of equipment on which the operator has been trained and evaluated.

If an employer does not regularly employ the same operators, such as when powered industrial truck operators are assigned by a hiring hall, the employer does not need to maintain the records at its own worksite. The employer must know where the records are located, and they must be accessible to a compliance officer during an inspection. Failure of an employer to provide the records under these conditions would be a violation of WAC 296-24-23025(6).

E. *Can an employer comply with the evaluation and recordkeeping requirements even if the employee's file contains no record of the three-year evaluation?*

Yes. The absence of documentation does not necessarily represent a violation of the 3-year evaluation requirement as it applies to longshore and marine terminal activities. The only time documentation must be in an employee's file is when deficiencies in the operator's ability have been noted and retraining is therefore required.

F. *How can training of experienced operators be demonstrated?*

An employee who, prior to December 1, 1998, has regularly operated a particular type of powered industrial truck in a marine terminal or longshoring operation (as determined by an existing entity such as a joint labor-management committee), may be determined to be competent under WAC 296-24-23025(6) to operate that type of powered industrial truck *if* one of the following provisions has been met:

- Written documentation establishes that the employee has previously been trained and evaluated on all of the training topics listed in WAC 296-24-23025(3) that are applicable to that type of powered industrial truck; or
- The employee's operation of the type of powered industrial truck is evaluated under circumstances that typically prevail in the marine terminal and/or longshoring workplaces in which the operator normally works by a person or entity with the requisite knowledge, skills, and experience to perform evaluations, and the employee is found competent to perform the operator's duties safely. If the evaluations, which can be based on the review of records by an existing entity, such as a joint labor-management committee, are conducted during the normal course of business, they need not be repeated for purposes of this requirement.

G. *When must a PIT operator in longshoring or marine terminal operations receive refresher training (WAC 296-24-23025(4)(b))?*

1. Observed deficiencies. A powered industrial truck operator must receive refresher training under WAC 296-24-23025(4)(b) if a workplace observation by a supervisor or other qualified person indicates that the operator is deficient in some of the requisite knowledge and skills needed to operate the vehicle safely.

If the observer determines that the deficiencies in the operator's knowledge and skills can be corrected by on-the-job instruction, the observer or another qualified person may immediately provide such instruction.

After such instruction, the observer or other qualified person may reevaluate the operator's performance in the workplace and, if the operator demonstrates that he or she possesses the knowledge and skills to operate the equipment safely, the operator may continue to operate the powered industrial truck without any further training and without affecting his or her certification.

If on-the-job instruction is not sufficient to correct the deficiencies in the operator's knowledge and skills, the operator must receive such additional refresher training and evaluation as is necessary to ensure that the operator has the knowledge and skills needed to operate the powered industrial truck safely.

2. Involvement in an Incident. An operator must receive refresher training and evaluation under WAC 296-24-23025(4)(b) when the operator has been involved in an incident in which his or her operation of the powered industrial truck caused or contributed to personal injury or property damage or provided other clear evidence that the operator operated the equipment in an unsafe manner.

In the event that a WISHA inspection of the incident is conducted, the inspector will include in the case file and account for any facts and conclusions developed by an independent inquiry of the factors underlying the incident that are made available to the CSHO during the inspection or within 14 days of the incident, whichever is later.

H. *Can an employer rely upon "generic training" of an operator?*

An operator who has been trained on a particular type of powered industrial truck may, without additional training, operate other makes and models of the same type of truck that have fundamentally similar operating characteristics and placement of operating controls. Similarly, an employee who has been trained to use a particular type of powered industrial truck attachment need not receive additional training to use a fundamentally similar make or model of the same type of attachment for the same type of truck.

Approved: _____

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648 or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).